

General Terms and Conditions of Stela Laxhuber GmbH for Installation



Validity of the General Terms and Conditions

The following terms and conditions apply for installation carried out by the supplier and in addition to the General Terms and Conditions of Sale and Supply.

I. Costs of Installation

Installation work is charged separately unless agreed otherwise. Installation costs include in particular:

1. Installation work is charged separately unless agreed otherwise. Installation costs include in particular travel costs, daily allowance of the working hours of the installation personnel in accordance with the respectively valid billing rates of the supplier, including premiums for overtime (25% extra), night work (50% extra) and Sunday and holiday work (100% extra). The normal working time is from Monday to Friday 7:30 AM to 4:30 PM.
2. Preparation, travel, waiting and commute times are considered work time and as charged as such. If the setup or commissioning is delayed at no fault of the supplier, then the purchaser must bear all costs for the waiting time and any additional travel required. Agreed flat-rate prices for installation do not include premiums for overtime, night, Sunday and holiday work that becomes necessary. These can be charged in addition. The installation work associated with system assembly is considered completed upon commissioning for test purposes.
3. The installation price is understood to be plus legally stipulated value added tax.
4. Withholdings and offsets against the supplier's claim are only permissible with indisputable claims or claims determined to be legally binding.

The purchaser is only entitled to exercise its right to withholding insofar as the counterclaim is based on the same contractual relationship.

II. Cooperation Obligations of the Purchaser

The following conditions apply for all installation and repair work carried out by the supplier:

1. The purchaser must, at its own expense, accept and order in good time:
 - a. Provision of the necessary skilled persons/assistants (masons, carpenters, locksmiths and other skilled persons, handyman) in the quantity required for installation and for the required time; the skilled persons/assistants must follow the instructions of the installation foreman. The supplier does not accept any liability for the work performed by the skilled persons/assistants provided.
 - b. All ground, construction and scaffolding work, the required mortice and penetration work, as well as carpentry work. This includes the necessary building materials, as well as providing a crane and scaffolding. All electrical connections and supply lines must be designed according to the instructions of the supplier.
 - c. The equipment necessary for installation and commissioning such as hoist, bottled gas, bottled oxygen and other necessary utensils and materials.
 - d. Heating, lighting and operating power, including the necessary connections all the way to the construction site.
 - e. Lockable rooms large enough to store the machine parts, materials and tools. Also break rooms with washing facilities for the fitters.
 - f. Insurance coverage for materials and tools against theft and damage of all types.
2. Before installation can begin, access paths and setup places must be cleared and all other advance work must be completed. The foundation must be hardened and dry. The supplied parts must be on site at the right location; in particular, the purchaser's technical assistance must ensure that installation can begin immediately after the installation personnel arrive and can be carried out without delay up until acceptance by the purchaser.
3. If installation or commissioning at the construction site is delayed at no fault of the supplier, then all costs for the waiting time and additional journey are borne by the purchaser.
4. Additional and special work requested by the purchaser must be confirmed in writing by the supplier and is charged to the purchaser.
5. Skilled persons/Assistants provided by the client are paid by the client, including any social contributions due (health insurance, employer's liability insurance coverage, etc.).
6. The supplier's fitters are not authorised to issue binding statements, in particular in questions of warranty.

III. Acceptance

1. The purchaser is obligated to accept the installation as soon as the purchaser has been informed of its completion and

any contractually stipulated testing of the installed object of supply has taken place. If the installation proves to be defective and/or not in accordance with the contract, then the supplier is obligated to provide warranty or bear liability as per Section V. and VI. This does not apply if supplementary performance is only possible at unreasonable costs or is based on a circumstance for which the purchaser is responsible. If there is an insignificant defect, the purchaser cannot refuse acceptance if the supplier expressly acknowledges its obligation to remedy the defect.

2. If acceptance is delayed at no fault of the supplier, the object of installation is considered accepted two weeks after the purchaser was informed that the installation is complete.
3. Liability for noticeable defects lapses with acceptance, unless the purchaser has reserved the right to make a claim for a specific defect.

IV. Claims for Defects

1. After installation acceptance, the contractor is liable for installation defects in accordance with valid legislation with the exception of the following provisions.
The purchaser must report a discovered defect to the contractor immediately and set a reasonable period for remedying the defect.
2. Only in cases of emergency in which operational safety is at risk and to prevent unreasonably large losses, whereby the contractor must be notified immediately, or if the contractor – in consideration of the legal exceptions – has fruitlessly allowed a reasonably set period for remedying the defect to lapse, does the purchaser have the right in accordance with valid legislation to remedy the defect itself or to commission a third part to remedy the defect and to demand compensation for the necessary costs from the supplier.
3. Of the immediate costs incurred to remedy the defect, the contractor – provided the claim proves to be justified – bears the cost of the replacement part including shipping. In addition, the contractor bears the costs for removal and installation, as well as any costs required to supply the necessary fitters and assistants, including travel costs, provided this does not pose a disproportionate burden to the contractor.
4. Additional claims are governed exclusively by Section V. of these Terms and Conditions.

V. Liability of the Contractor, Exclusion of Liability

1. If parts of the object of supply are damaged at the fault of the supplier, the supplier must, at its own discretion and expense, repair the parts or supply them new.
2. For additional losses which did not occur on the object itself, the contractor bears unrestricted liability for losses from injury, loss of life and damage to health, which result from negligent or deliberate breach of duty by the contractor or also a deliberate or negligent breach of duty by a legal representative or employee.
Furthermore, the contractor bears unrestricted liability for other losses which result from a grossly negligent breach of duty or from a deliberate or grossly negligent breach of duty of a legal representative or employee.
The contractor also bears liability where this is stipulated by law, such as the product liability law.
In the event of other negligently caused property damage and financial losses, the contractor also bears liability for legal representatives and employees only in the event of a material contractual obligation; material contractual obligations are those whose fulfilment shape the contract and on which the purchaser can rely.
In the case of liability for material contractual obligations, the amount of the loss is limited to the contract-typical loss foreseeable at conclusion of contract.
In other cases, liability – regardless of the legal reason concerned – is excluded; the provisions above also apply for claims arising from fault at conclusion of contract.

VI. Limitation of Actions

Legal periods apply for loss compensation claims as per Section V.; this is also true if the contractor performs its work on a structure and thus causes defects to the structure.
Other claims of the purchaser, on whatever legal grounds, lapse in 12 months.

VII. Indemnification of the Purchaser

If, during the supplier's installation activity, equipment made available by the contractor or tools in the operation of the purchaser are damaged or lost at no fault of the supplier, then the purchaser is obligated to provide compensation for these losses. Losses which are the result of normal wear are not taken into consideration.

VIII. Miscellaneous

1. The law of the Federal Republic of Germany governing legal relationships between domestic parties applies exclusively for all legal relationships between the supplier and the purchaser.
2. The legal venue is the court with jurisdiction at the domicile of the supplier. The supplier, however, has the right to bring a case before court at the main domicile of the purchaser.
3. All agreements between the supplier and purchaser must be made in writing. All amendments and/or auxiliary agreements before or after contract conclusion must also be made in writing.
4. If individual provisions of this contract become ineffective, the other provisions remain in effect. The ineffective provision shall be replaced by a provision which comes closest to the business intentions of the original provision.